

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

DAVID L. SHAW, #689847

§

VS.

§

CIVIL ACTION NO. 6:18cv520

DIRECTOR, TDCJ-CID

§

ORDER OF DISMISSAL

Petitioner David L. Shaw, a former inmate confined within the Texas Department of Criminal Justice (TDCJ) proceeding *pro se*, filed this numbered habeas proceeding. The petition was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On January 14, 2022, Judge Mitchell issued a Report, (Dkt. #11), recommending that Petitioner's habeas petition be dismissed, without prejudice, for Petitioner's failure to comply with multiple orders of the Court and his failure to prosecute his own case. A copy of this Report was sent to Petitioner at his last-known address; however, to date, no objections to the Report have been filed. Moreover, a search for Petitioner within TDCJ's online website returns with no result, indicating that Petitioner has been released from imprisonment.

Petitioner's apparent release from imprisonment—without the filing of a notice of a change of address—bolsters the Report recommending that the petition should be dismissed. *See Martinez-Reyes v. United States*, 2016 WL 8740494 *4 (S.D. Tex.—McAllen, Oct. 10, 2016) (explaining that, generally, “litigants, including prisoners, bear the burden of filing notice of a change of address in such a way that will bring attention of the court to address change.”) (quoting *Theede v. U.S. Dep’t of Labor*, 172 F.3d 1262, 1267 (10th Cir. 1999)).

Because objections to Judge Mitchell's Report have not been filed, Petitioner is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

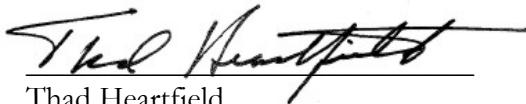
The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #11), is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that Petitioner's federal habeas petition is **DISMISSED**, without prejudice, for Petitioner's failure to comply with orders of the Court and Petitioner's failure to prosecute. Petitioner is **DENIED** a certificate of appealability *sua sponte*, which refers to this case only and does not prevent refiling. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

SIGNED this the 7 day of **February, 2022**.


Thad Heartfield
United States District Judge